IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.09.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.25095 of 2024
and W.M.P.Nos. 27419 and 27421 of 2023

Amman Sellappan Sivaraj
2/31, Pavattampalayam A Thalaiyur PO,
MacDonald Choultry, Sankari Taluk,
Salem Dist., Salem – 636103
PAN:HSTPS8364H ...Petitioner

Vs.

The Assessment Unit,
Income Tax Department,
Ministry of Finance, Delhi. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the first respondent relating to the assessment order passed under Section 147 r.w.s 144 read with Section 144B of the Income Tax Act, 1961 dated 01.03.2024 in DIN:ITBA/AST/S147/2023-24/1061808846(1) for the assessment year 2018-19 and quash the same.

For Petitioner : Mr.T.Vasudevan
For Respondent : Dr.B.Ramaswamy
Senior Standing Counsel

ORDER

Challenging the order dated 01.03.2024 passed by the respondent, the petitioner has filed the present Writ Petition.

2.Learned counsel for the petitioner would submit that the respondent had issued show cause notice dated 25.04.2022 under Section 148 of the I.T.Act. The petitioner had filed his return of income on 07.05.2022. Without considering the same, the respondent issued notice under Section 131(1) of the Act. Thereafter, the petitioner filed reply to the said notice on 01.02.2024. The respondent without considering the reply and without affording an opportunity of personal hearing to the petitioner, passed the impugned order dated 01.03.2024, which is violation of principle of natural justice.

3. Learned Senior standing counsel for the respondent would submit that the respondent issued specific questionnaires to assessee via notices under Section 142(1) on 28.07.2023 and 03.10.2023, delivered to his e-filing account and registered email ID. These notices requested the submission of bank statements, income computation etc., The assessee failed to respond to these notices and subsequent centralized communication also sent to the assessee. Despite being given ample opportunities to provide explanations and supporting documents, the assessee remained non-complaint, leaving no option but to complete the assessment ex-parte under Section 144 of the Income Tax Act, 1961. Therefore, there is no merit in the submission of the petitioner. Hence, he prayed to dismiss the petition.

4. Heard the learned counsel for the petitioner and the learned Senior Standing counsel for the respondent and perused the materials available on record.

5. On perusal of the impugned order makes it clear that the assessee has failed to furnish any reply in response to the statutory notice issued to him. Though the respondent has given liberty to the petitioner to appear for personal hearing vide various notices, the petitioner failed to avail such an option. Therefore, the question of violation of natural justice will not arise.

6. Accordingly, the writ petition is dismissed. However, liberty is granted to the petitioner to file an appeal within a period of fifteen(15) days from the date of receipt of a copy of this order and thereafter, the respondent is directed to afford an opportunity of personal hearing to the petitioner and dispose of the appeal in accordance with law. No costs. Consequently connected miscellaneous petitions are closed.

25.09.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
msv
To
The Assessment Unit,
Income Tax Department, Ministry of Finance, Delhi.

Krishnan Ramasamy,J.,

msv

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